



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-01 **Annuity Disclosures under 20 CSR 400-5.800** **Issued: April 4, 2017**

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All insurers issuing annuity products in Missouri

From: Chlora Lindley-Myers, Acting Director

Re: Illustrations for Participating Income Annuities

This bulletin provides information on how the annuity illustration standards in 20 CSR 400-5.800 may apply to participating income annuity illustrations. Rule 20 CSR 400-5.800 is based on an NAIC model regulation addressing consumer protections through annuity disclosures. The amended Model was adopted by the NAIC in April 2015, filed as a proposed rule by DIFP on September 30, 2016, and the rule is effective on March 30, 2017.

A participating income annuity is a fixed annuity that pays both a guaranteed income stream and a non-guaranteed dividend, with the dividend determined by the insurer based in part upon the policy experience (*e.g.*, investment, mortality, expense).

Section (4)(D) of 20 CSR 400-5.800 prohibits fixed annuity illustrations that have the capacity or tendency to mislead or be incomplete. In particular, any illustration based on non-guaranteed elements: (1) may not be more favorable than the current values of those non-guaranteed elements; (2) may not include any assumed future improvement of the non-guaranteed elements; and (3) must reflect any planned changes in the non-guaranteed elements, such as the expiration of a bonus period as provided for in 20 CSR 400-5.800(4)(F).

In issuing this Bulletin, the Department is notifying insurers that it will not take enforcement action against an insurer offering a participating income annuity, provided the insurer acts within or meets the guidelines outlined below.

1. The illustration indicates a dividend scale for a participating income annuity is a non-guaranteed element.
2. For all non-guaranteed dividend scales, the illustration clearly discloses the reinvestment assumptions in the applicable dividend scale (or scales if more than one dividend scale applies, such as for a flexible premium annuity).
3. Illustrations do not assume that the current dividend scale will be maintained in future years unless the company reasonably expects it to be more likely than not that the current dividend scale, and any specific underlying measures used to calculate the dividend scale, are sustainable on a long-term basis.
4. The company's expectations are presented to be both subjectively and objectively reasonable.
 - a. The Department will consider the use of the same assumptions on which the company itself relies to be subjectively reasonable. The program's design must demonstrate the company apportioning dividends fairly and equitably, whether performance meets, exceeds, or falls short of expectations.
 - b. The Department will consider the use of assumptions about future investment performance that are consistent with assumptions that are reflected in the marketplace within the normal range of analyst forecasts and investor behavior to be objectively reasonable.
 - i. If the dividend scale is based on a portfolio rate method, the portfolio rate underlying the illustrated dividend scale shall not be assumed to increase.
 - ii. For a participating income annuity product where the dividend scale is based on an investment cohort method, reinvestment rates shall be based on the current interest rate environment.
 - iii. For a participating income annuity product where the dividend scale is based on an investment cohort method, grading to long-term interest rates based on mean reversion may be assumed separately from the requirement in paragraph ii above. The grading to the long-term assumptions should occur over no less than 20 years from issue if U.S. Treasury rates as of the illustration date are below the long-term rates, or no more than 20 years from issue if the U.S. Treasury rates as of the illustration date are above the long-term rates.

The Department understands the NAIC's 'A' Committee is currently contemplating changes to the underlying model rule. The Department encourages insurers to actively collaborate with regulators through the NAIC Model Rule process to ensure a timely and comprehensive remedy to this issue.

This bulletin sunsets on March 31, 2018.

Any questions or comments regarding this Bulletin should be directed to the Market Regulation Division at 573-751-3365.



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-02 **Extension of CMS Transitional Policy** **Issued: April 4, 2017**

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All health carriers issuing health benefit plans in Missouri

From: Chlora Lindley-Myers, Acting Director

Re: Extension of CMS Transitional Policy

The Department originally issued Bulletin [13-07](#) on November 21, 2013, regarding a transitional policy for non-ACA compliant health plans announced by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), on November 14, 2013. A further extension granted by CMS was addressed in bulletin [14-02](#).

On February 27, 2017, CMS announced another extension of the transitional policy through Calendar Year 2018. As reflected in the [CMS announcement](#), carriers that renewed a non-ACA compliant health benefit plan anytime in 2014 may renew these plans through October 1, 2018.

As with Bulletins [13-07](#) and [14-02](#), the Department has not identified any Missouri insurance law that prohibits the continuation of coverage permitted by the CMS transitional policy for the individual or small employer group market.

The Department recognizes this transitional policy allows Missouri consumers to have additional health insurance plan choices. Carriers are encouraged to ensure they make information about all

health insurance plan choices available to eligible employers and all enrollees in order to help them make fully informed decisions about their health insurance purchases. Carriers are also encouraged to review the [CMS announcement](#) to ensure compliance with its stated requirements.

Health carriers with questions should contact the Life and Health Section, Division of Market Regulation, at 573-751-3365.



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-03 **Health Insurance Rate Filing Key Dates** **Issued: April 18, 2017**

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All health carriers writing health insurance or health benefit plan coverage in Missouri

From: Director Chlora Lindley-Myers

Re: Health Insurance Rate Filing Key Dates

This Bulletin provides notice of key filing dates for health benefit plan coverage that will be offered during the 2018 plan year, as required by section 376.465, RSMo, and 20 CSR 400-13.100.

Applicability:

This Bulletin primarily addresses key dates for filing rates for plans that:

- are health benefit plans as defined in section 376.465, RSMo; and
- do NOT meet the definitions of grandfathered plan or excepted benefit plan in section 376.465, RSMo; and
- are NOT health benefit plans issued to a large employer, as that term is defined under section 376.450, RSMo; and
- are therefore subject to a determination of reasonableness under section 376.465, RSMo.

This bulletin will refer to such plans as "these plans."

Note that these plans include student health plans and association group plans, regardless of the size of such plans. Such plans are not employer sponsored plans, and therefore are NOT health benefit plans issued to a large employer, as that term is defined under section 376.450, RSMo. These plans include associations described in 376.421.5(e) that include small employers.

File Rates for These Plans No Later than July 17, 2017

The Centers for Medicare and Medicaid Services, Center for Consumer Information and Insurance Oversight recently notified the Missouri Department of Insurance, Financial Institutions and Professional Registration that Missouri is designated as a state with an Effective Rate Review Program, beginning with rate filings submitted for the 2018 plan year. A copy of the notice is attached for reference.

Current federal law requires rates for individual and small group single risk pool and transitional plans to be filed no later than July 17, 2017, for plans to be issued or renewed on or after 1/1/18. In order to fulfill the intent of section 376.465, RSMo, and retain status as an “Effective Rate Review” state for purposes of federal law, rate filings for these plans must be submitted no later than July 17, 2017, with the exception that rates for student health plans are not required to be filed by this date.

With regard to student health plans, federal law exempts such plans from federal single risk pool requirements and from the filing deadlines applicable to individual and small group single risk pool and transitional plans. Therefore, pursuant to section 376.465, RSMo, rates for student health plans must be filed no later than 60 days prior to the effective date of the proposed rates for each such plan.

File Rates for These Plans No Earlier than June 15, 2017

Current federal law requires “Effective Rate Review” states to post proposed rates for plans they call single risk pool and transitional plans on ~~August 1, 2017~~, and the Department does not intend to post proposed rates any earlier. However, in order to meet the time frames allowed for review under section 376.465, RSMo, and public comment under 20 CSR 400-13.100, if a carrier files rates for these plans before June 15, 2017, the carrier will need to request an extension of the time frame for initial review to allow for public posting of proposed rates pursuant to Missouri law.

September 1, 2017 per Bulletin 17-07

Optional Filing of Quarterly Rates for These Plans in the Small Group Market

Current federal law permits single risk pool and transitional plans in the small group market to have rates that are adjusted as often as quarterly. Missouri law does not prohibit quarterly rate changes. Therefore, for these plans, health carriers that wish to make quarterly rate filings for small group market plans may do so.

- 2018 Plans: The Department anticipates that quarterly small group rate filings will be submitted consistent with filing deadlines yet to be announced by the federal government, but in no event any later than 60 days prior to the proposed effective date, per section 376.465, RSMo.
 - The Department notes that federal filing deadlines for quarterly small group rates in prior years have been approximately 105 days before the effective date of the quarterly rates.

- The Department advises carriers that uploading quarterly Rate Templates for purposes of displaying rates on the SHOP exchange should not occur before the rate filing has been reviewed and a determination of reasonableness has been made.
- When planning to submit quarterly rate filings for review, carriers should bear in mind that 20 CSR 400-13.100 requires a 30 day public comment period for any rate filing, including small group quarterly rate filings.
- 2017 Plans: Please note that quarterly rate filings for any small group plan issued or renewed during calendar year 2017 are not subject to section 376.465, RSMo. Quarterly rate filings for any such plans should continue to be submitted to the federal government for review.

File Rates for Excepted Benefit Plans and Grandfathered Plans 30 Days Prior to Use

For other plans not addressed in this bulletin, please see section 376.465, RSMo. For dental plans that a health carrier or licensed pre-paid dental plan intends to make available for sale on the exchange in Missouri, nothing in Missouri law prevents filing rates for those plans at any time.

Filings with CMS

20 CSR 400-13.100(8) requires carriers to submit rate filing materials to CMS concurrently with rate filings to the Department. However, federal guidance for transitional and student health plans only mandates rate increase submissions for rate increases over the federally identified rate review threshold. Therefore, in order to alleviate unnecessary administrative burdens, the Department will not consider a health carrier to be non-compliant with 20 CSR 400-13.100(8) if the health carrier files rates for transitional and student health plans as outlined by federal guidance for transitional and student health plans.

For Additional Rate Filing Guidance

General Instructions available via the System for Electronic Rate and Form Filing (SERFF) for Missouri have been updated. Additional filing guidelines with details for the content and structure of health insurance and health benefit plan rate filings will be posted to the Department's website and will be announced when available.

Any questions or comments regarding this Bulletin should be directed to Molly White at 573-526-4106 or via email to Molly.White@insurance.mo.gov.

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
Center for Consumer Information and Insurance Oversight
200 Independence Avenue SW
Washington, DC 20201



March 17, 2017

Acting Director Chlora Lindley-Myers
Missouri Department of Insurance
301 W. High St., Room 530
Jefferson City, MO 65101

Dear Acting Director Lindley-Myers:

I would like to, first, thank you and your staff for your collaboration in ensuring Missouri's smooth transition to effective rate review status. This letter designates Missouri as a state with an Effective Rate Review Program pursuant to 45 CFR §154.301 beginning with rate filings submitted for the 2018 plan year. The change in responsibilities detailed in this letter are based on this designation. In general, the Missouri Department of Insurance, Financial Institutions and Professional Registration (DOI) will perform the health carrier compliance functions of reviewing rate filings for compliance with the Affordable Care Act (ACA) insurance market reforms beginning with 2018 plan year filings.¹

This letter serves to delineate the responsibilities of the DOI and the Centers for Medicare & Medicaid Services (CMS) regarding enforcement of the ACA insurance market reforms as well as pre-ACA federal insurance market reforms, including with respect to form filing review.

This letter does not change, but memorializes, the enforcement roles already established with respect to the pre-ACA federal insurance market reform captured in title XXVII of the Public Health Service Act (PHS Act), as added by the Health Insurance Portability and Accountability Act of 1996 and amended by the Mental Health Parity Act of 1996, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, the Newborns' and Mothers' Health Protection Act (NMHPA), the Women's Health and Cancer Rights Act (WHCRA) (Mo. Rev. Stat §376.1209) and the Genetic Information Nondiscrimination Act of 2008 (GINA), Michelle's Law, and the Children's Health Insurance Program Reauthorization Act of 2009.

CMS acknowledges that Missouri state law currently mirrors federal provisions included in WHCRA and in GINA (Mo. Rev. Stat §§375.1300 to 375.1312). Further, we consider Missouri state law sufficient with respect to NMHPA (Mo. Rev. Stat §376.1210) and Michelle's Law (Mo. Rev. Stat §§376.426, 376.776, and 354.536) as they are viewed as equally as or more protective than the standards contained within federal law. To the extent that changes are made with respect

¹ The ACA insurance market reforms are captured in title XXVII of the Public Health Service Act ("PHS Act"), as amended by the Affordable Care Act, and in 42 U.S.C. Chapter 157.

to statutory language or enforcement of these laws such that the DOI is no longer substantially enforcing the federal provisions, CMS will take over primary enforcement authority.

CMS and the DOI have not identified any additional provisions of state health insurance law that meet or exceed federal standards; therefore, CMS will maintain primary enforcement authority over and continue to undertake enforcement action against a carrier with respect to the remaining federal insurance market reforms, as outlined in this letter, to the extent CMS determines such action is warranted.

I. Enforcement Roles

The following describes the roles of each party.

A. Review of Rates for Compliance with ACA Insurance Market Reforms

The DOI shall review rate filings submitted by health carriers in Missouri for all new and existing health benefit plans in the individual and small group markets, including student health insurance plans, that have an effective date on or after January 1, 2018, pursuant to the Missouri Health Insurance Rate Transparency Act (Mo. Rev. Stat. §376.465.1) and related regulations (20 CSR 400-13.100). This will include review to ensure compliance with applicable state requirements, as well as applicable ACA insurance market reforms.

In the event the DOI discovers that a health carrier's rate filing is not in compliance with the ACA insurance market reforms, the DOI will request that the health carrier amend the rate(s) and supporting analysis contained within the respective rate filing to be consistent with the ACA insurance market reforms.

B. Policy Form Review

CMS shall review policy forms submitted by health carriers in Missouri for all new and existing health benefit plans in the individual and small group markets, including student health insurance plans, for compliance with the federal insurance market reforms as enumerated above. If CMS, during its review of policy forms or through other means, discovers that a health carrier has delivered or issued a health benefit plan in the Missouri individual or small group market that is not in compliance with applicable federal insurance market reforms, as enumerated above, CMS will request that the health carrier amend the policy form(s) to be consistent with the applicable insurance market reforms and re-file a compliant policy form(s). CMS will subsequently review the revised form(s) for compliance. In the event a health carrier fails to amend the policy form(s) for compliance with the applicable federal insurance market reforms, CMS will take enforcement action as it determines appropriate and notify the DOI of any enforcement action it takes, including the results thereof.

The DOI will review all policy forms and related materials submitted to the DOI by health carriers in Missouri for both the individual and small group markets for compliance with applicable state requirements.

C. Consumer Assistance

CMS will provide consumer assistance by responding to consumer inquiries and complaints related to health carrier compliance with applicable federal insurance market reforms. CMS will also be responsible for responding to consumer inquiries or complaints about the Federally-facilitated Marketplace operating in Missouri, including but not limited to any complaints relating the Marketplace's website, inquiries regarding eligibility for advance payments of the premium tax credit, or questions about enrollment in a qualified health plan (QHP) through the Marketplace. The DOI will not attempt to resolve these types of consumer complaints and/or inquiries. In the event the DOI receives such a consumer complaint or inquiry, the DOI will notify CMS and forward the complaint and related materials. CMS will investigate these matters and take enforcement action with regard to a health carrier as CMS determines appropriate. CMS will notify the DOI of any enforcement action it takes, including the results thereof.

In the event the DOI, in the course of responding to a consumer inquiry or complaint about a health benefit plan that is not directly related to the federal insurance market reforms, determines that a health carrier has acted in a manner that raises questions about compliance with the federal insurance market reforms, the DOI will notify CMS and forward the complaint and related materials. CMS will investigate these matters to ensure compliance with applicable requirements and may request that the health carrier take corrective action to resolve the inquiry or complaint. In the event a health carrier refuses to take corrective action or resolve an inquiry or complaint in a way that complies with the ACA insurance market reforms, CMS will take enforcement action as it determines appropriate and will notify the DOI of any enforcement action it takes, including the results thereof.

If, as a result of a consumer inquiry or complaint, the DOI determines that there may be a pattern or practice of noncompliance with the federal insurance market reforms by a health carrier, the DOI will notify CMS of its determination and provide CMS with the basis for the determination.

D. Market Conduct Examinations

CMS will be responsible for performing market conduct examinations of Missouri health carriers to determine compliance with federal insurance market reforms. CMS may also perform targeted market conduct examinations when it has evidence or information suggesting a pattern or practice of noncompliance with federal insurance market reforms by a health carrier.

CMS will notify the DOI when it performs a market conduct examination and will also report to the DOI regarding the scope and results of any investigation or market conduct examination related to federal insurance market reforms. The DOI agrees to treat that information as confidential to the extent required under Missouri law and federal law. Based on the findings of the market conduct examination and other information the DOI provides, CMS, after consultation with the DOI, will undertake further investigation and formal enforcement actions to the extent warranted.

II. Commitment to Keep the DOI and CMS Informed of Enforcement Activities

Each party (CMS and the DOI) will keep the other party informed of all significant developments with respect to any enforcement actions brought against health carriers with respect to conduct affecting residents of Missouri.

III. Exchange of Information and Maintenance of Confidentiality

To facilitate the DOI's rate review efforts, the DOI may gain access to confidential information from CMS's Health Insurance Oversight System (HIOS). The DOI must treat this information as confidential and exempt from disclosure under Mo. Rev. Stat. §374.185. Mo. Rev. Stat. §374.185 permits the commissioner of insurance to maintain documents received from federal law enforcement and regulatory agencies as confidential and privileged. Without an assurance of confidentiality by the DOI, the DOI will be unable to access confidential information contained within HIOS.

Certain documents, data, templates, and other forms of information contained within HIOS have been deemed confidential by CMS or by the sources of the information within HIOS. This includes, but is not limited to, data or other information relative to qualified health plans that the DOI may receive from CMS or may access via HIOS. The DOI agrees to use such data or information only for purposes of DOI regulatory and oversight in Missouri consistent with HIOS Rules of Behavior, and that any data deemed confidential or privileged by CMS shall not be publicly disclosed, nor disseminated beyond the individuals authorized by the DOI, and shall not constitute a waiver of any privilege or claim of confidentiality.

If the DOI enters into relationships with third parties to assist with duties specified in this letter, it must execute contracts that require such entities and any subcontractors or affiliates of such entities to comply with the confidentiality and limitations on disclosure requirements described herein.

The DOI must notify CMS immediately if any confidential information is lost, stolen, disclosed or accessed in a manner inconsistent with this letter, whether intentionally or unintentionally.

IV. Terms and Duration

Modification of the responsibilities outlined in this letter may be made as necessary to ensure that consumers in Missouri are receiving the full protections established under federal law. The above terms, as presently written or as modified in the future, will apply for as long as Missouri maintains its status as a state with an Effective Rate Review Program, and CMS has assumed direct enforcement authority for the federal insurance market reforms, as enumerated above, in Missouri. CMS and the DOI will enter into discussions to ensure an effective transition, pursuant to 45 CFR §150.221, if and when the circumstances requiring CMS enforcement under 45 CFR §150.203 no longer apply.

Respectfully,



Samara Lorenz
Director, Oversight Group
Center for Consumer Information & Insurance Oversight



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-04

Assistance to Missouri residents impacted by flooding

Issued: May 4, 2017

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department or an insurer. See §374.015, RSMo.

To: All insurers writing insurance in the State of Missouri

From: Chlora Lindley-Myers, Director

Re: Assistance to Missouri residents impacted by recent flooding

The Department is issuing this Bulletin to assist individuals and entities regulated by the Department as they work to address the flooding that is affecting Missouri consumers.

Cancellation Grace Period Due to Nonpayment or Late Payment

Contemporaneous with the State of Emergency declared by Governor Eric R. Greitens in [Executive Order 17-13](#), the Department requests all insurers licensed in this State allow coverage to remain in effect for any Missouri insured who resides in a county where severe flooding has occurred and who has had their ability to timely act or respond to an insurer materially affected by the flood. Insurers may alternatively choose to implement this request in a broader manner such as delineating impacted areas by zip code, county or other geographic territory to assist impacted insureds in recovering from the recent floods.

Insurers should also consider providing a grace period during which their insureds can take actions necessary to keep their policies in force. However, the Department is not requesting insurers waive any premiums or other consideration owed on any policy or contract during this period of time. The Department anticipates that a failure to pay premiums or remit consideration within a reasonable time after the expiration of such disaster designation may subject the policy to a retroactive cancellation, in accordance with the policy terms.

For those policies with an automatic bank draft or electronic funds transfer arrangement, insurers may continue payment deductions unless or until the policyholder terminates this arrangement with the insurer and the financial institution.

Nothing in this bulletin should be construed as the Department requesting an insurer to continue coverage for an insured who is otherwise unaffected by any mail disruptions. Additionally, nothing in this bulletin should be construed as the Department requesting any insurer to refrain from terminating coverage on the basis of fraud on the part of an insured.

Out-of-Network Benefits Treated as In-Network

The Department makes an additional request to all health insurers as defined in section 376.1350 that provide health insurance with a network component while the affected areas are impacted by flooding. If such insurers have insureds affected by flooding (which could be either a circumstance where the insured's primary residence was impacted by flooding or where the insured's ability to access their provider was impacted by flooding), who receives out of network care, the health insurer should consider providing coverage to the insured at no greater cost to the insured than if the insured had received care from an in network provider.

To assist insurers with implementing this request, the Department has attached a map of Missouri counties. This map is intended to roughly approximate those counties significantly impacted by flooding. *This map is provided for informational purposes only.* The Department appreciates the assistance and cooperation of insurers as Missourians continue to recover from this historic and unprecedented flooding event.

Insurers with questions regarding this Bulletin or needing other assistance may contact Angela Nelson, Director of the Division of Market Regulation at 573-751-2430.

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A map of Missouri showing its 115 counties. The counties are colored in three categories: blue, yellow, and white. Blue counties include Atchison, Nodaway, Worth, Harrison, Mercer, Putnam, Schuyler, Scotland, Clark, Holt, Andrew, Gentry, Grundy, Sullivan, Adair, Knox, Lewis, DeKalb, Linn, Macon, Shelby, Marion, Buchanan, Clinton, Caldwell, Livingston, Chariton, Randolph, Monroe, Ralls, Pike, Lincoln, Warren, St. Charles, St. Louis, St. Genevieve, Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Pemiscot, and Dunklin. Yellow counties include Howard, Boone, Callaway, Audrain, Montgomery, Gasconade, Crawford, Washington, St. Francois, Bollinger, Stoddard, Oregon, Ripley, Butler, Wayne, Madison, Reynolds, Shannon, Dent, Phelps, Pulaski, Camden, Hickory, Benton, Morgan, Cole, Miller, Osage, Maries, Franklin, Jefferson, St. Clair, Cedar, Dade, Lawrence, Christian, Douglas, Howell, Taney, Ozark, Barry, Stone, Newton, Jasper, Barton, Vernon, Bates, Johnson, Pettis, Cooper, Moniteau, and Cass. White counties include Atchison, Nodaway, Worth, Harrison, Mercer, Putnam, Schuyler, Scotland, Clark, Holt, Andrew, Gentry, Grundy, Sullivan, Adair, Knox, Lewis, DeKalb, Linn, Macon, Shelby, Marion, Buchanan, Clinton, Caldwell, Livingston, Chariton, Randolph, Monroe, Ralls, Pike, Lincoln, Warren, St. Charles, St. Louis, St. Genevieve, Perry, Cape Girardeau, Scott, Mississippi, New Madrid, Pemiscot, and Dunklin.

Counties with significant flooding
and closures of major roadways.

Counties with significant flooding, no major road closures, but likely impact.



DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-05

Guaranteed Renewability in the Individual Market

Issued: May 24, 2017

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All health carriers writing health insurance or health benefit plan coverage in Missouri

From: Director Chlora Lindley-Myers

Re: Guaranteed Renewability in the Individual Market

The Missouri Department of Insurance, Financial Institutions and Professional Registration is issuing this bulletin to provide information to health carriers writing health insurance or health benefit plan coverage in Missouri regarding guaranteed renewability in the individual market.

Section 376.454, RSMo (Supp. 2013) is part of Missouri's Health Insurance Portability and Accountability Act ("Mo-HIPAA"), which closely mirrors the provisions of the federal Health Insurance Portability and Accountability Act ("HIPAA") (P.L. 104-191). Specifically, section 376.454 requires health insurance issuers in the individual market to "renew or continue in force such coverage at the option of the individual." The statute then outlines three scenarios whereby a health insurance issuer in the individual market may cease renewing or continuing in force individual health insurance coverage.

These three scenarios relate to when a health insurance issuer can non-renew or discontinue health insurance coverage of a particular individual, when an issuer decides to discontinue offering a particular type of health insurance coverage, and when an issuer decides to discontinue

offering all health insurance coverage in the individual market in the state. This bulletin refers specifically to subsections 3 and 4 of Section [376.454](#) RSMo Supp. 2013.

Section 376.454, which was enacted in 2007 by the Missouri General Assembly, is virtually identical to the corresponding federal law, 42 U.S.C. §300gg-42, which was originally enacted by Congress as part of HIPAA in 1996. These provisions were enacted by both Congress and the Missouri General Assembly long before the Affordable Care Act, and grandfathered and transitional plans were ever contemplated. The purpose behind these guaranteed renewability provisions in the pre-ACA environment was to ensure that once an individual obtained coverage in the individual market, where coverage was subject to pre-existing condition exclusion, he or she would be able to keep such coverage.

The authority of the Director is limited to enforcing insurance laws of this state.¹ Specifically, the regulation of individual health policies is limited by state law to ensuring compliance with “the insurance laws of this state,” and similar language also limits the Director’s authority with respect to the regulation of group insurance policies.² The Department has long held that the authority of the Director does not extend to enforcement of federal law within the state. Missouri’s lack of authority to enforce compliance with federal law is also acknowledged by the U.S. Department of Health and Human Services. Missouri is one of four states designated “direct enforcement states,” noting that in these states, enforcement of federal law is done by the federal government.³

Grandfathered health plans were created by Congress as part of the Affordable Care Act. 42 U.S.C. §18011, provides that nothing in the Affordable Care Act may be construed to require an individual to terminate coverage in a health plan in which the individual was enrolled on March 23, 2010. It also permits enrollment of family members or employees into plans that provided coverage on March 23, 2010 and which are renewed after that date, and calls these plans “grandfathered health plans.” In 2016, the Missouri General Assembly amended provisions of the small employer law to make some provisions of that law applicable only to plans issued on or before March 23, 2010.⁴ The General Assembly did not make similar amendments to provisions of law related to individual health plans, and grandfathered health plans are not defined under Missouri law for purposes of the individual market.

Transitional health plans (also known as grandmothers plans) were created by the Centers for Medicare and Medicaid Services (“CMS”) in 2013. In a letter⁵ to state Insurance Commissioners dated November 14, 2013, Gary Cohen, Director of the Center for Consumer Information and Insurance Oversight (“CCIIO”) outlined a transitional policy whereby health insurance coverage in the individual or small group market that is renewed for a policy year that

¹ Section 374.040 (Related to the duties of the director); section 374.046 (related to the director’s authority regarding violations of the laws “of this state”); and section 374.085 (related to the division of Consumer Affairs’ authority to investigate complaints related to unfair or unlawful acts under the insurance laws of this state).

² Section 376.777.7(3), RSMo (Supp. 2013). Similarly, disapproval of policy forms must also be predicated on the requirements of the laws of this state. See also section 376.405, RSMo (Supp. 2013).

³ See “Compliance and Enforcement,” <https://www.cms.gov/cciiio/programs-and-initiatives/health-insurance-market-reforms/compliance.html>

⁴ See Sections 379.934, 379.936, and 379.940, RSMo (Non. Cum. Supp. 2016)

⁵ <https://www.cms.gov/cciiio/resources/letters/downloads/commissioner-letter-11-14-2013.pdf>

begins between January 1, 2014 and October 1, 2014 will not be considered to be out of compliance with certain specified ACA market reforms. This transitional policy has been renewed annually since the initial November, 2013 announcement, with the most recent renewal of the policy occurring in February, 2017.⁶ Transitional health plans are not defined or addressed in any way under Missouri law.

Missouri law related to individual health insurance does not recognize different sub-classes of individual health insurance, such as grandfathered or transitional plans. Nothing in state law prohibits the extension of an offer of coverage under plans that are considered grandfathered or transitional under federal law.

In light of the tremendous uncertainty that surrounds the health insurance market, the Department is aware carriers are considering renewing individual health benefit plans considered to be grandfathered and transitional under federal law, while discontinuing all other types of individual health benefit plans. The Department has received inquiries from insurers regarding how such actions may be viewed by the Department in terms of Section 376.454 RSMo.

In issuing this Bulletin, the Department notifies insurers that it would view such actions as product discontinuations and that it will not take enforcement action against an insurer where:

- 1) The insurer renews any grandfathered and transitional plans continuously;
- 2) The insurer offers eligible individuals the opportunity to obtain coverage under grandfathered and transitional plans as required by applicable law;
- 3) The insurer complies with the 90-day notice requirement for all individuals whose coverage is discontinued, pursuant to 376.454.3(1);
- 4) The insurer, in taking any of the actions outlined in paragraphs 1-3, acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage; and
- 5) The insurer notifies the Department in writing of its intent to discontinue coverage as outlined herein at least 90 days prior to the discontinuation of coverage.

Missourians who have made the choice to keep grandfathered and transitional health plans should be able to keep that coverage in light of significant and tremendous market uncertainty. The provisions of this Bulletin will also ensure no arbitrary limitations impede competition and unnecessarily restrain consumer choice in the individual health insurance market.

Any insurers with questions or concerns should contact Angela Nelson, Director of Market Regulation at 573-751-2430.

⁶ See “Insurance Standards Bulletin Series -- INFORMATION -- Extension of Transitional Policy through Calendar Year 2018,” February 23, 2017 <https://www.cms.gov/ccio/resources/regulations-and-guidance/downloads/extension-transitional-policy-cy2018.pdf>



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-06

Annuity Suitability Training – 20 CSR 400-5.900

Issued: May 25, 2017

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department or an insurer. See §374.015, RSMo.

To: All producers and insurers offering or selling annuity products in the State of Missouri

From: Chlora Lindley-Myers, Director

Re: Annuity Suitability Training Requirements

The purpose of this Bulletin is to respond to and address inquiries the Department has received with regard to producer training requirements arising from "Suitability in Annuity Transactions," Regulation 20 CSR 400-5.900, which was effective March 30, 2017.

The Department has received a number of inquiries regarding the implementation of Regulation 20 CSR 400-5.900, in light of the March 30, 2017 effective date. The Regulation requires that producers who hold a life insurance line of authority and who intend to engage in the sale of annuity products complete a one-time four (4) hour training course. These requirements apply to both resident and non-resident producers and to all types of annuity products.

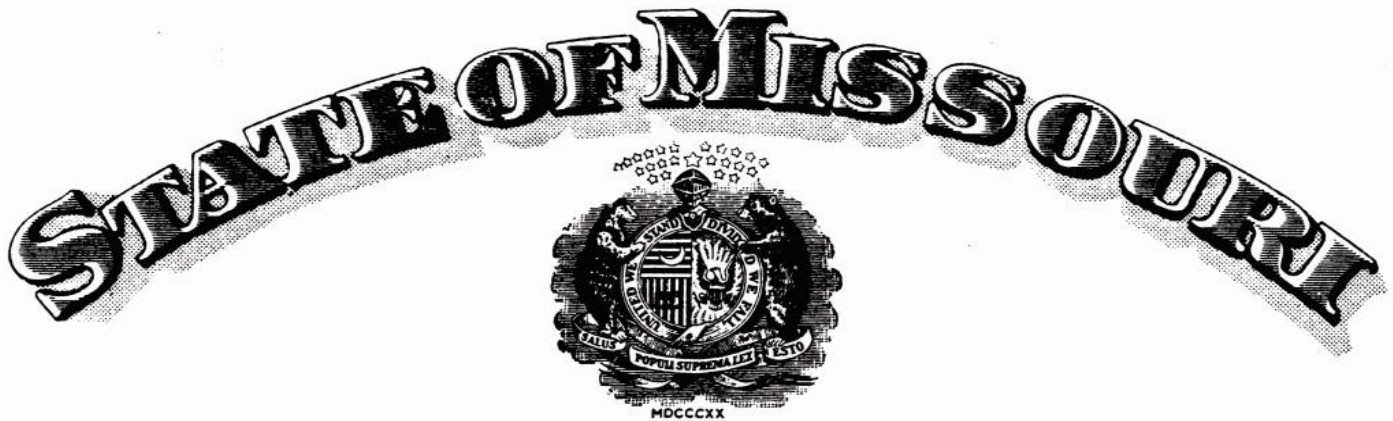
The Department directs insurers and producers to 20 CSR 400-5.900(5)(B)1.B. This subparagraph provides that currently licensed producers have six (6) months after the March 30, 2017 effective date in which to complete the training requirements. In other words, producers licensed as of March 30, 2017 have until September 30, 2017 to complete the annuity suitability training. Individuals seeking to become a licensed producer must complete the annuity suitability training before they sell, solicit, or negotiate annuities in Missouri.

The Department next directs insurers and producers to 20 CSR 400-5.900(5)(B)8. This paragraph states that satisfying training requirements of another state that are substantially similar shall be deemed to satisfy the training requirements of this State. The training requirements are specifically identified in 20 CSR 400-5.900(5)(B)3. To further clarify, if a producer (resident or non-resident) has met another state's annuity suitability training requirements, and those requirements are substantially similar to Missouri's, there is no additional training required to sell, solicit, or negotiate annuities in Missouri. This provision applies even if the training was completed prior to the adoption of Regulation 20 CSR 400-5.900.

Finally, the Department directs insurers and producers to 20 CSR 400-5.900(5)(B)9. This paragraph details the obligations of an insurer to ensure all of its insurance producers have completed the annuity suitability training course. This paragraph further details the manner in which an insurer may document its compliance and provides a few examples of how to do so.

Insurers with questions regarding this Bulletin or needing other assistance may contact the Licensing Section by email at licensing@insurance.mo.gov or by phone at 573-751-3518.

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DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-07

Publication of Proposed Health Insurance Rates for 2018

Issued: July 21, 2017

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department. See section 374.015, RSMo.

To: All health carriers writing health insurance or health benefit plan coverage in Missouri

From: Director Chlora Lindley-Myers

Re: Publication of Proposed Health Insurance Rates for 2018

The Department originally issued Bulletin [17-03](#) on April 18, 2017 outlining key dates related to health insurance rate filings for plan year 2018. In that Bulletin, the Department noted that federal law requires "Effective Rate Review" states to post proposed rates for plans they call single risk pool and transitional plans on August 1, 2017, and the Department noted it did not intend to post proposed rates any earlier than that date.

Since Bulletin 17-03 was issued, there were several significant developments impacting the individual health insurance market in Missouri for 2018. To ensure the Department can still meet its objectives and maintain its status as an effective rate review state, and after consulting with officials from the Centers for Medicare and Medicaid Services (CMS), the Department has decided to modify the posting date for all proposed rates for the aforementioned plans. The new posting date for such proposed rates is September 1, 2017. The Department invites the public to comment on the proposed rates when they are published on September 1, 2017. Except for the

date of posting of the proposed rates, all other information included in Bulletin 17-03 remains unchanged.

For Additional Rate Filing Guidance

General Instructions available via the System for Electronic Rate and Form Filing (SERFF) for Missouri have been updated. Additional [filing guidelines](#) with details for the content and structure of health insurance and health benefit plan rate filings are posted on the Department's website.

Any questions or comments regarding this Bulletin should be directed to Molly White at 573-526-4106 or via email to Molly.White@insurance.mo.gov



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 17-08

Gramm Leach Bliley Act Annual Privacy Notices – 20 CSR 100-6.100

Issued: August 3, 2017

The following Bulletin is issued by the Missouri Department of Insurance, Financial Institutions and Professional Registration (“Department”) to inform and educate the reader on the specified issue. It does not have the force and effect of law, is not an evaluation of any specific facts or circumstances, and is not binding on the Department or an insurer. See §374.015, RSMo.

To: All insurers, producers and other persons and entities required to be registered with or licensed by this Department to transact business in this state

From: Chlora Lindley-Myers, Director

Re: Gramm Leach Bliley Act Annual Privacy Notices – 20 CSR 100-6.100

The purpose of this Bulletin is to respond to and address inquiries the Department received with regard to annual Gramm Leach Bliley privacy notices currently required under Regulation 20 CSR 100-6.100 and how those have been impacted by recent federal legislative changes.

On Dec. 4, 2015, the Fixing America’s Surface Transportation (FAST) Act was enacted into law and effective immediately. The FAST Act includes amendments to the Gramm Leach Bliley Act (GLBA) to eliminate the requirement for financial institutions to provide GLBA annual notices provided certain conditions are met, thus eliminating a duplicative and costly notification requirement. Financial institutions continue to be required to provide initial privacy notices as required under the GLBA.

The department is currently undergoing a comprehensive review of all administrative rules, pursuant to Governor Eric R. Greitens' [Executive Order 17-03](#). Part of that comprehensive review includes a review of 20 CSR 100-6.100, entitled "Privacy of Financial Information". This regulation was originally filed in October, 2002, becoming effective on April 30, 2003.

In line with the recent federal legislative changes and to eliminate unnecessary and costly duplication to the insurance industry, operating in multiple jurisdictions across the country, this Bulletin is to notify licensees subject to the GLBA annual notice requirements contained in 20 CSR 100-6.100 of a regulatory "safe harbor".

By the issuance of this Bulletin, the department notifies and advises all licensees that the department will not take an enforcement action against a licensee to enforce the annual privacy notice requirements under 20 CSR 100-6.100(2) (B), provided the licensee:

- (i) Provides nonpublic personal information to nonaffiliated third parties only in accordance with 20 CSR 100-6.100 (4) (A), 20 CSR 100-6.100 (4) (B) and 20 CSR100-6.100 (4) (C); and

- (ii) Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with 20 CSR 100-6.100 (2)(A) or 20 CSR 100-6.100 (2) (B).

If, at any time, a licensee fails to comply with any of the criteria described in paragraph (i) or (ii), then the regulatory "safe harbor" set forth above shall not apply and the licensee will still be obligated to provide the annual privacy notice required under 20 CSR 100-6.100 (2) (B).

Finally, this regulatory "safe harbor" **does not** impact or effect any obligation of a licensee to provide the GLBA initial privacy notices that are specified under 20 CSR 100-6.100 (2) (A). Licensees are directed to review 20 CSR 100-6.100 (2) (A) for more information regarding these requirements.

This Bulletin and the regulatory "safe harbor" outlined above shall remain in effect until the rescission of 20 CSR 100-6.100 or this Bulletin, whichever is earlier.

Licensees with questions regarding this Bulletin may contact Angela Nelson, Director of the Division of Market Regulation at 573-751-2430.

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DIVISION OF WORKERS' COMPENSATION

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ERIC R. GREITENS
GOVERNOR

ANNA S. HUI
ACTING DEPARTMENT DIRECTOR

COLLEEN JOERN VETTER
DIVISION DIRECTOR

To: All Workers' Compensation Insurance Companies, Self-Insured Employers, Group Trusts, and Third Party Administrators

From: Anna S. Hui, Acting Director, 
Missouri Department of Labor and Industrial Relations

Colleen Joern Vetter, Director 
Missouri Division of Workers' Compensation

Chlora Lindley-Myers 
Missouri Department of Insurance, Financial Institutions and Professional Registration

Date: October 31, 2017

Subject: Workers' Compensation Administrative Tax, Administrative Surcharge, Second Injury Fund Surcharge, and Second Injury Fund Supplemental Surcharge for the 2018 Calendar Year

As required by Sections 287.690, 287.715, and 287.716, RSMo, the state of Missouri shall impose a workers' compensation administrative tax, administrative surcharge, Second Injury Fund surcharge, and a Second Injury Fund supplemental surcharge. For calendar year 2018, there will be no change from calendar year 2017. For calendar year 2018, the administrative tax will be 1.0 percent, the administrative surcharge will be 1.0 percent, the Second Injury Fund surcharge will be 3.0 percent, and the Second Injury Fund supplemental surcharge will be 3.0 percent.

Section 287.690, RSMo, authorizes the imposition of an administrative tax not to exceed two percent. Section 287.716, RSMo, authorizes the imposition of an administrative surcharge at the same rate as the administrative tax. The revenue from the administrative tax and the administrative surcharge is used to fund expenses associated with the administration of the Missouri Workers' Compensation law.

Section 287.715, RSMo, authorizes the imposition of a Second Injury Fund surcharge that shall not exceed three percent. Effective January 1, 2014, §287.715.6, RSMo, authorizes the imposition of a Second Injury Fund supplemental surcharge not to exceed three percent. The Second Injury Fund supplemental surcharge may be collected for calendar years 2014 to 2021. The revenue generated by the Second Injury Fund surcharge and the Second Injury Fund supplemental surcharge is used to pay benefit and expense liabilities of the fund.

For more information about the functions and services of the Division of Workers' Compensation and the Second Injury Fund, visit <http://labor.mo.gov/DWC/>.

The Department of Labor and Industrial Relations and the Department of Insurance, Financial Institutions and Professional Registration look forward to working with you in 2018. If you have questions or need additional information, contact the Division of Workers' Compensation at 800-775-2667 or the Department of Insurance, Financial Institutions and Professional Registration at 800-394-0964.

*Missouri Division of Workers' Compensation is an equal opportunity employer/program.
Auxiliary aids and services are available upon request to individuals with disabilities.
TDD/TTY: 800-735-2966 Relay Missouri: 711*

**MISSOURI
DEPARTMENT OF LABOR
& INDUSTRIAL RELATIONS**